

107TH CONGRESS
1ST SESSION

H. R. 3373

To amend the Internal Revenue Code of 1986 to provide tax benefits for the recovery of the area of New York City damaged in the September 11, 2001, terrorist attacks.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 29, 2001

Mr. HOUGHTON (for himself, Mr. RANGEL, Mr. FOSSELLA, Mr. GILMAN, Mr. TOWNS, Mrs. MCCARTHY of New York, Mr. QUINN, Mr. KING, Mrs. KELLY, Mr. SWEENEY, Mr. REYNOLDS, Mr. SERRANO, Mr. WALSH, Mr. MCHUGH, Mr. GRUCCI, Mr. ENGEL, and Mr. HINCHEY) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide tax benefits for the recovery of the area of New York City damaged in the September 11, 2001, terrorist attacks.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “New York Liberty
5 Zone Tax Relief Act of 2001”.

1 **SEC. 2. TAX BENEFITS FOR AREA OF NEW YORK CITY DAM-**
 2 **AGED IN TERRORIST ATTACKS ON SEP-**
 3 **TEMBER 11, 2001.**

4 (a) IN GENERAL.—Chapter 1 of the Internal Rev-
 5 enue Code of 1986 is amended by adding at the end the
 6 following new subchapter:

7 **“Subchapter Y—New York Liberty Zone**
 8 **Benefits**

“Sec. 1400L. Tax benefits for New York Liberty Zone.

9 **“SEC. 1400L. TAX BENEFITS FOR NEW YORK LIBERTY ZONE.**

10 **“(a) SPECIAL ALLOWANCE FOR CERTAIN PROPERTY**
 11 **ACQUIRED AFTER SEPTEMBER 10, 2001.—**

12 **“(1) ADDITIONAL ALLOWANCE.—**In the case of
 13 any qualified New York Liberty Zone property—

14 **“(A)** the depreciation deduction provided
 15 by section 167(a) for the taxable year in which
 16 such property is placed in service shall include
 17 an allowance equal to 30 percent of the ad-
 18 justed basis of such property, and

19 **“(B)** the adjusted basis of the qualified
 20 New York Liberty Zone property shall be re-
 21 duced by the amount of such deduction before
 22 computing the amount otherwise allowable as a
 23 depreciation deduction under this chapter for
 24 such taxable year and any subsequent taxable
 25 year.

1 “(2) QUALIFIED NEW YORK LIBERTY ZONE
2 PROPERTY.—For purposes of this subsection—

3 “(A) IN GENERAL.—The term ‘qualified
4 New York Liberty Zone property’ means
5 property—

6 “(i)(I) to which section 168 applies
7 (other than railroad grading and tunnel
8 bores), or

9 “(II) which is computer software (as
10 defined in section 167(f)(1)(B)) for which
11 a deduction is allowable under section
12 167(a) without regard to this subsection,

13 “(ii) substantially all of the use of
14 which is in the New York Liberty Zone
15 and is in the active conduct of a trade or
16 business by the taxpayer in such Zone,

17 “(iii) the original use of which in the
18 New York Liberty Zone commences with
19 the taxpayer after September 10, 2001,
20 and

21 “(iv) which is acquired by the tax-
22 payer by purchase (as defined in section
23 179(d)) after September 10, 2001, and
24 placed in service by the taxpayer on or be-
25 fore the termination date, but only if no

1 written binding contract for the acquisition
2 was in effect before September 11, 2001.

3 The term ‘termination date’ means December
4 31, 2006 (December 31, 2009, in the case of
5 nonresidential real property and residential
6 rental property).

7 “(B) EXCEPTIONS.—

8 “(i) ALTERNATIVE DEPRECIATION
9 PROPERTY.—The term ‘qualified New York
10 Liberty Zone property’ shall not include
11 any property to which the alternative de-
12 preciation system under section 168(g) ap-
13 plies, determined—

14 “(I) without regard to paragraph
15 (7) of section 168(g) (relating to elec-
16 tion to have system apply), and

17 “(II) after application of section
18 280F(b) (relating to listed property
19 with limited business use).

20 “(ii) ELECTION OUT.—If a taxpayer
21 makes an election under this clause with
22 respect to any class of property for any
23 taxable year, this subsection shall not
24 apply to all property in such class placed
25 in service during such taxable year.

1 “(C) SPECIAL RULES RELATING TO ORIGI-
2 NAL USE.—

3 “(i) SELF-CONSTRUCTED PROP-
4 ERTY.—In the case of a taxpayer manufac-
5 turing, constructing, or producing property
6 for the taxpayer’s own use, the require-
7 ments of clause (iv) of subparagraph (A)
8 shall be treated as met if the taxpayer be-
9 gins manufacturing, constructing, or pro-
10 ducing the property after September 10,
11 2001, and before the termination date.

12 “(ii) SALE-LEASEBACKS.—For pur-
13 poses of subparagraph (A)(iii), if
14 property—

15 “(I) is originally placed in service
16 after September 10, 2001, by a per-
17 son, and

18 “(II) sold and leased back by
19 such person within 3 months after the
20 date such property was originally
21 placed in service,

22 such property shall be treated as originally
23 placed in service not earlier than the date
24 on which such property is used under the
25 leaseback referred to in subclause (II).

1 “(D) ALLOWANCE AGAINST ALTERNATIVE
 2 MINIMUM TAX.—The deduction allowed by this
 3 subsection shall be allowed in determining alter-
 4 native minimum taxable income for purposes of
 5 the tax imposed by section 55.

6 “(b) 5-YEAR RECOVERY PERIOD FOR DEPRECIATION
 7 OF CERTAIN LEASEHOLD IMPROVEMENTS.—

8 “(1) IN GENERAL.—For purposes of section
 9 168, the term ‘5-year property’ includes any quali-
 10 fied leasehold improvement property.

11 “(2) QUALIFIED LEASEHOLD IMPROVEMENT
 12 PROPERTY.—For purposes of this subsection—

13 “(A) IN GENERAL.—The term ‘qualified
 14 leasehold improvement property’ means any im-
 15 provement to an interior portion of a building
 16 which is nonresidential real property if—

17 “(i) such building is located in the
 18 New York Liberty Zone,

19 “(ii) such improvement is made under
 20 or pursuant to a lease (as defined in sec-
 21 tion 168(h)(7))—

22 “(I) by the lessee (or any subles-
 23 see) of such portion, or

24 “(II) by the lessor of such por-
 25 tion,

1 “(iii) such portion is to be occupied
2 exclusively by the lessee (or any sublessee)
3 of such portion,

4 “(iv) such improvement is placed in
5 service—

6 “(I) after September 10, 2001,
7 and more than 3 years after the date
8 the building was first placed in serv-
9 ice, and

10 “(II) before January 1, 2007,
11 and

12 “(v) no written binding contract for
13 such improvement was in effect before Sep-
14 tember 11, 2001.

15 “(B) CERTAIN IMPROVEMENTS NOT IN-
16 CLUDED.—Such term shall not include any im-
17 provement for which the expenditure is attrib-
18 utable to—

19 “(i) the enlargement of the building,

20 “(ii) any elevator or escalator,

21 “(iii) any structural component bene-
22 fitting a common area, and

23 “(iv) the internal structural frame-
24 work of the building.

1 “(C) DEFINITIONS AND SPECIAL RULES.—

2 For purposes of this paragraph—

3 “(i) COMMITMENT TO LEASE TREAT-
4 ED AS LEASE.—A commitment to enter
5 into a lease shall be treated as a lease, and
6 the parties to such commitment shall be
7 treated as lessor and lessee, respectively.

8 “(ii) RELATED PERSONS.—A lease be-
9 tween related persons shall not be consid-
10 ered a lease. For purposes of the preceding
11 sentence, the term ‘related persons’
12 means—

13 “(I) members of an affiliated
14 group (as defined in section 1504),
15 and

16 “(II) persons having a relation-
17 ship described in subsection (b) of
18 section 267; except that, for purposes
19 of this clause, the phrase ‘80 percent
20 or more’ shall be substituted for the
21 phrase ‘more than 50 percent’ each
22 place it appears in such subsection.

23 “(D) IMPROVEMENTS MADE BY LESSOR.—

24 “(i) IN GENERAL.—In the case of an
25 improvement made by the person who was

1 the lessor of such improvement when such
2 improvement was placed in service, such
3 improvement shall be qualified leasehold
4 improvement property (if at all) only so
5 long as such improvement is held by such
6 person.

7 “(ii) EXCEPTION FOR CHANGES IN
8 FORM OF BUSINESS.—Property shall not
9 cease to be qualified leasehold improve-
10 ment property under clause (i) by reason
11 of—

12 “(I) death,

13 “(II) a transaction to which sec-
14 tion 381(a) applies, or

15 “(III) a mere change in the form
16 of conducting the trade or business so
17 long as the property is retained in
18 such trade or business as qualified
19 leasehold improvement property and
20 the taxpayer retains a substantial in-
21 terest in such trade or business.

22 “(3) REQUIREMENT TO USE STRAIGHT LINE
23 METHOD.—The applicable depreciation method
24 under section 168 shall be the straight line method

1 in the case of qualified leasehold improvement prop-
2 erty.

3 “(4) 9-YEAR RECOVERY PERIOD UNDER ALTER-
4 NATIVE SYSTEM.—For purposes of section 168(g),
5 the class life of qualified leasehold improvement
6 property shall be 9 years.

7 “(c) INCREASE IN EXPENSING UNDER SECTION
8 179.—

9 “(1) IN GENERAL.—For purposes of section
10 179—

11 “(A) the limitation under section 179(b)(1)
12 shall be increased by the lesser of—

13 “(i) \$35,000, or

14 “(ii) the cost of section 179 property
15 which is qualified New York Liberty Zone
16 property placed in service during the tax-
17 able year, and

18 “(B) the amount taken into account under
19 section 179(b)(2) with respect to any section
20 179 property which is qualified New York Lib-
21 erty Zone property shall be 50 percent of the
22 cost thereof.

23 “(2) RECAPTURE.—Rules similar to the rules
24 under section 179(d)(10) shall apply with respect to

1 any qualified New York Liberty Zone property which
2 ceases to be used in the New York Liberty Zone.

3 “(d) TAX-EXEMPT BOND FINANCING.—

4 “(1) IN GENERAL.—For purposes of this title,
5 any qualified New York Liberty Bond shall be treat-
6 ed as an exempt facility bond.

7 “(2) QUALIFIED NEW YORK LIBERTY BOND.—

8 For purposes of this subsection, the term ‘qualified
9 New York Liberty Bond’ means any bond issued as
10 part of an issue if—

11 “(A) 95 percent or more of the net pro-
12 ceeds (as defined in section 150(a)(3)) of such
13 issue are to be used for qualified project costs,

14 “(B) such bond is issued by the State of
15 New York or any political subdivision thereof,

16 “(C) the Governor of New York designates
17 such bond for purposes of this section, and

18 “(D) such bond is issued during calendar
19 year 2002, 2003, or 2004.

20 “(3) LIMITATION ON AMOUNT OF BONDS DES-
21 IGNATED.—The maximum aggregate face amount of
22 bonds which may be designated under this sub-
23 section shall not exceed \$15,000,000,000.

24 “(4) QUALIFIED PROJECT COSTS.—For pur-
25 poses of this subsection—

1 “(A) IN GENERAL.—The term ‘qualified
2 project costs’ means the cost of acquisition,
3 construction, reconstruction, and renovation
4 of—

5 “(i) nonresidential real property and
6 residential rental property (including fixed
7 tenant improvements associated with such
8 property) located in the New York Liberty
9 Zone, and

10 “(ii) public utility property located in
11 the New York Liberty Zone.

12 “(B) COSTS FOR CERTAIN PROPERTY OUT-
13 SIDE ZONE INCLUDED.—Such term includes the
14 cost of acquisition, construction, reconstruction,
15 and renovation of nonresidential real property
16 (including fixed tenant improvements associated
17 with such property) located outside the New
18 York Liberty Zone but within the City of New
19 York, New York, if such property is part of a
20 project which consists of at least 100,000
21 square feet of usable office or other commercial
22 space located in a single building or multiple
23 adjacent buildings.

24 “(C) LIMITATIONS.—Such term shall not
25 include—

1 “(i) costs for property located outside
2 the New York Liberty Zone to the extent
3 such costs exceed \$7,000,000,000,

4 “(ii) costs with respect to residential
5 rental property to the extent such costs ex-
6 ceed \$3,000,000,000, and

7 “(iii) costs with respect to property
8 used for retail sales of tangible property to
9 the extent such costs exceed
10 \$1,500,000,000.

11 “(D) MOVABLE FIXTURES AND EQUIP-
12 MENT.—Such term shall not include costs with
13 respect to movable fixtures and equipment.

14 “(5) SPECIAL RULES.—In applying this title to
15 any qualified New York Liberty Bond, the following
16 modifications shall apply:

17 “(A) Section 146 (relating to volume cap)
18 shall not apply.

19 “(B) Section 147(c) (relating to limitation
20 on use for land acquisition) shall be determined
21 by reference to the aggregate authorized face
22 amount of all qualified New York Liberty
23 Bonds rather than the net proceeds of each
24 issue.

1 “(C) Section 147(d) (relating to acquisi-
2 tion of existing property not permitted) shall be
3 applied by substituting ‘50 percent’ for ‘15 per-
4 cent’ each place it appears.

5 “(D) Section 148(f)(4)(C) (relating to ex-
6 ception from rebate for certain proceeds to be
7 used to finance construction expenditures) shall
8 apply to construction proceeds of bonds issued
9 under this section.

10 “(E) Financing provided by such a bond
11 shall not be taken into account under section
12 168(g)(5)(A) with respect to property substan-
13 tially all of the use of which is in the New York
14 Liberty Zone and is in the active conduct of a
15 trade or business by the taxpayer in such Zone.

16 “(F) Repayments of principal on financing
17 provided by the issue—

18 “(i) may not be used to provide fi-
19 nancing, and

20 “(ii) are used not later than the close
21 of the 1st semiannual period beginning
22 after the date of the repayment to redeem
23 bonds which are part of such issue.

24 The requirement of clause (ii) shall be treated
25 as met with respect to amounts received within

1 10 years after the date of issuance of the issue
2 (or, in the case of refunding bond, the date of
3 issuance of the original bond) if such amounts
4 are used by the close of such 10 years to re-
5 deem bonds which are part of such issue.

6 “(G) Section 57(a)(5) shall not apply.

7 “(6) SEPARATE ISSUE TREATMENT OF POR-
8 TIONS OF AN ISSUE.—This subsection shall not
9 apply to the portion of the proceeds of an issue
10 which (if issued as a separate issue) would be treat-
11 ed as a qualified bond or as a bond that is not a
12 private activity bond (determined without regard to
13 subsection (a)), if the issuer elects to so treat such
14 portion.

15 “(e) EXTENSION OF REPLACEMENT PERIOD FOR
16 NONRECOGNITION OF GAIN.—Notwithstanding sub-
17 sections (g) and (h) of section 1033, clause (i) of section
18 1033(a)(2)(B) shall be applied by substituting ‘5 years’
19 for ‘2 years’ with respect to property which is compulsorily
20 or involuntarily converted as a result of the terrorist at-
21 tacks on September 11, 2001, in the New York Liberty
22 Zone but only if substantially all of the use of the replace-
23 ment property is in the City of New York, New York.

24 “(f) NEW YORK LIBERTY ZONE.—For purposes of
25 this section, the term ‘New York Liberty Zone’ means the

1 area located on or south of Canal Street, East Broadway
2 (east of its intersection with Canal Street), or Grand
3 Street (east of its intersection with East Broadway) in the
4 Borough of Manhattan in the City of New York, New
5 York.”

6 (b) CLERICAL AMENDMENT.—The table of sub-
7 chapters for chapter 1 of such Code is amended by adding
8 at the end the following new item:

“Subchapter Y. New York Liberty Zone Benefits.”

